

## **REMARKS**

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-17 were pending in this application. In the Office Action:

- Claims 1-10 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.
- Claims 1, 6-9, and 11-14 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2006/0120333 to Horvat et al (“Horvat”).
- Claims 15-17 were allowed.

In this Amendment, claims 1 and 10 have been amended. Accordingly, upon entry of this Amendment, claims 1-17 will be pending.

### **Rejection of Claims 1 and 10 under 35 U.S.C. § 101**

Claims 1 and 10 have each been amended to recite a digital communications system. Accordingly, each of claims 1 and 10, as well as the dependent claims 2-9 through there dependency from claim 1, recite a statutorily allowable category of subject matter, namely, a machine (digital communications system). Accordingly, Applicants respectfully request that the rejection of claims 1-10 under 35 U.S.C. § 101 be withdrawn.

### **Rejection of Claims 1, 6-9, and 11-14 under 35 U.S.C. § 102(e)**

#### Claims 1, 11, and 13

Claims 1, 11 and 13 are not anticipated by the cited art because the portions of Horvat relied upon in the rejection of claims 1, 11 and 13 do not disclose the complete combination of features recited in the rejected claims.

Claim 1, as amended herein recites a communications system that includes, among other things, a primary data transmission period during which a first block of digital data is transmitted, where the first block of digital data has not been previously transmitted; a redundant data transmission period during which a second block of digital data is transmitted, where the second block of digital data was previously transmitted at a different carrier frequency during the primary data transmission period of the prior data frame; a primary data receive period during which a third block of digital data is received, where the third block of digital data has not previously been received; and a redundant data receive period during which a fourth block of digital data is received, where the fourth block of digital data was previously received at a different carrier frequency during the primary data receive period of the prior data frame.

An exemplary implementation of the system of claim 1 is illustrated in Figure 2 of this Application, which depicts two successive communications frames of a digital communications system, each frame comprising a base station to handset communications portion (BS>HS) and a handset to base station communications portion (HS>BS). In primary period 111 data block  $T_n$  is transmitted for a first time. In redundant transmission period 112 a data block  $T_{n-1}$  is transmitted (denoted as  $T_{n-1}$  to indicate that the data was transmitted in a previous frame). Similarly, primary receive period 115 contains data block  $R_n$  that is received for a first time, and redundant receive period 116 contains data block  $R_{n-1}$  that was received also in a previous frame (not shown). This structure is repeated in the next frame of Figure 2, as illustrated. Another feature illustrated in Figure 2 and recited in claim 1 is that the successive frame in which a redundant block of data is transmitted or received, for example, block  $T_n$ , occupies a different frequency than the frame in which the first copy of the respective data block was communicated.

Accordingly, the claimed communication system includes a data frame structure in which each frame contains a primary and redundant transmit and primary and redundant receive slots in which the redundant slot contains data that was sent in a *prior* data frame at a different *frequency*.

Portions of Horvat relied upon to support the rejection of claim 1, namely Figure 4 and the appurtenant text, illustrate a redundant frame structure in which each data packet is conveyed over both primary and redundant links in a *single* data frame. As noted in paragraph [0035], downlink data is transmitted over both slots 7 and 9, and uplink data over slots 11 and 13. Because the primary and redundant data slots illustrated in Figure 4 of Horvat are within the same frame, portions of Horvat used to support the rejection of claim 1 are deficient in at least two ways with respect to the features recited in claim 1: Figure 4 fails to disclose a redundant transmit slot in which a data packet is transmitted for a second time after having been transmitted a first time in a prior frame. Rather, the data packets are transmitted for a first and second time in the same frame. Furthermore, because the primary and redundant transmissions of the same data packet occur with the same data frame, Figure 4 fails to disclose that a block of digital data transmitted in a redundant time slot (for example, slot 9) was transmitted in a primary slot at a *different* frequency (in other words, without more, one of ordinary skill in the art would readily appreciate that the data packets transmitted over different slots 7 and 9 within the same *frame* would be transmitted over the same *frequency*).

Applicants therefore respectfully submit that claim 1 is not anticipated by Horvat and request that the rejection of claim 1 under 35 U.S.C. § 102(e) be withdrawn.

Claim 11 recites a method for communicating data that includes transmitting a first block of data from the first device to the second device during a first data frame period, where the first block of data has not been previously transmitted and transmitting a second block of data from the first device to the second device during the first data frame period, where the second block of data was also transmitted by the first device during the data frame period immediately preceding the first data frame period. For substantially the same reasons set forth above with respect to claim 1, the data frame structure disclosed in Figure 4 of Horvat fails to disclose the complete combination of features recited in claim 11. Applicants therefore respectfully submit that claim 11 is not anticipated by Horvat and request that the rejection of claim 11 under 35 U.S.C. § 102(e) be withdrawn.

Claim 13 recites a method for communication of data between a first device and a second device that includes transmitting at least one data block within each frame from the first device to the second device, where each data block is transmitted one time; determining that the quality of the communications link fails to satisfy a predetermined criterion; and transmitting a first data block and a second data block from the first device to the second device within each frame, the first data block containing data that has not been previously transmitted from the first device to the second device, the second data block containing data that was also transmitted from the first device to the second device during the preceding frame. For substantially the same reasons set forth above with respect to claim 1, the data frame structure disclosed in Figure 4 of Horvat fails to disclose the complete combination of features recited in claim 11. Applicants therefore respectfully submit that claim 13 is not anticipated by Horvat and request that the rejection of claim 13 under 35 U.S.C. § 102(e) be withdrawn.

Claims 6-9, 12, and 14

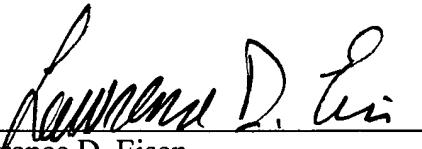
The rejection of claims 6-9, 12 and 14 was predicated upon the rejection of their respective base claims. At least for the reasons set forth above, claims 6-9, 12 and 14, which include all of the limitations of their base claims, should patentably distinguish over Horvat. Applicants therefore respectfully request that the rejection of claims 6-9 12, and 14 under 35 U.S.C. § 102(e) be withdrawn.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

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Respectfully submitted,

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Attachments: None.

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